



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

**AGENDA**

**Meeting of September 14, 2000**  
9:00 A.M., First Floor Hearing Room  
242 State Street, Augusta, Maine

**ROUTINE BUSINESS**

1. Ratification of Minutes of the August 9, 2000 meeting.

**OLD BUSINESS**

2. **James B. Moulton Request for Reconsideration:** By letter dated June 12, 2000, Mr. Barry Watson questioned the absence of an attribution statement for an advertisement in *The Gray News* supporting Mr. Jim Moulton for State Senate District 26. The Commission staff had not received a response from Mr. Moulton inquiring about the circumstances of the complaint. At the July 2000 meeting, the Commission voted unanimously to assess a \$100 penalty for failure to include the required "attribution" statement. Mr. Moulton has requested the Commission's reconsideration of its previous action based upon the information provided in his letter dated August 24, 2000.
3. **Reporting Form for Membership Organizations and Corporations:** Approval of form for reporting communications by membership organizations and corporations pursuant to Commission action at August meeting.

**NEW BUSINESS**

4. **Candidate Penalty Determinations:**
  - A. Donald H. Gean  
42-Day Post-Primary Campaign Finance Report  
Due 7/25/00; Filed 7/26/00 - 1 day late  
No previous late filings this biennium  
Penalty: \$129.10  
**Recommendation:** Assess penalty of \$129.10 (see fax receipt report)
  - B. Jacqueline Lundeen  
42-Day Post-Primary Campaign Finance Report  
Due 7/25/00; Filed 8/2 /00 - 8 days late  
No previous late filings this biennium  
Penalty: \$260.16  
**Recommendation:** Mitigate penalty to \$65.04 (25%) (see letter)



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### 5. Maine Clean Election Act Appeal:

A. Matthew J. Sanfacon: Appeal of denial of Request for Certification based on:

- (1) Submission of Declaration of Intent after close of qualifying period;
- (2) Receipt of qualifying contributions before start of qualifying period and after Request for Certification was signed; and
- (3) Use of ineffective Durable Power of Attorney by Agent (Principal out of country August 12-23) to sign all Qualifying Contributions Receipt and Acknowledgment forms and Seed Money Report.

### 6. Interpretations of Maine Clean Election Act:

A. Seed Money Contribution: A replacement candidate who has requested Maine Clean Election Act (MCEA) certification has reported seed money contributions totaling \$500.00 (the statutory limit) and a personal loan of \$148.30 to his campaign that has been repaid. The total of actual expenditures for the campaign was \$500.00 (\$351.70 for printing and \$148.30 for advertising). The definition of “contribution” includes a loan. Therefore, by strict statutory construction the total of contributions is \$648.30. However, the personal loan was made for cash flow purposes until other contributions could be collected, and the actual amount spent for the campaign does not exceed the seed money limit of \$500. Should the candidate be certified for MCEA participation? See 21A M.R.S.A. Sections 1122(9) and 1125(2).

**Recommendation:** Interpret the totality of the statutory provisions to exclude the amount of loan repayments from seed money contribution limits provided the loan funds were used only to alleviate cash flow problems. Any loan amount that is not repaid during the qualifying period should be included as a contribution from the candidate in computing total seed money contributions.

B. Treatment of Loan Repayment for Computing Matching Funds: A nonparticipating candidate who made a personal loan to his campaign before the primary election has received sufficient contributions since the primary to repay that loan. The candidate has requested to know whether the total of all contributions and expenditures since the primary election should include the amount of the loan repayment for the purpose of filing an accelerated 101% report and triggering the payment of matching funds to an MCEA opponent. Matching funds are computed based on the greater of the total of contributions or expenditures. The purpose of MCEA matching funds is to maintain a “level playing field” between certified and nonparticipating candidates. However, a strict reading of the statute, including the definitions of “contribution” and “expenditure” as including a loan, would create a different result. If a personal loan is repaid from contributions received, the campaign would receive no spending benefit from those repayment funds and the payment of matching funds based on those totals would have the effect of providing a windfall to the MCEA candidate.

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**Recommendation:** Interpret the totality of the statutory provisions to exclude the amount of loan repayments from "contributions" and "expenditures" provided the funds were used only to alleviate cash flow problems. Any loan amount that is not repaid should be included in computing total contributions as a contribution from the candidate.

7. Thomas J. Harder Complaint re Candidate Alton Morgan: Mr. Harder has filed a complaint against Mr. Morgan, candidate for Maine State House District 27, alleging a violation of the Hatch Act based on Mr. Morgan's status as a Federal employee of the U. S. Census Bureau.

**Recommendation:** Prepare response advising Mr. Harder that no State law prohibits a Federal employee from being a candidate for State elective office and, therefore, the Commission lacks jurisdiction over this complaint. However, since the federal Hatch Act does prohibit a Federal Employee from engaging in partisan political activity (possibly including candidacy for State elective office), his complaint should be filed with the appropriate Federal entity with jurisdiction over such matters.

8. Consideration of Lobbyist Reporting Requirements: Discussion of background and consideration of Commission position by means of the rulemaking process regarding clarification of the statutory requirements for lobbyist disclosure.
9. Push Polling Rulemaking: Discussion of Commission Counsel's analysis of legal issues associated with push polling rulemaking and Commission action regarding Chapter 133 Resolves, directing the Commission to adopt rules regulating push polling.
10. Other: As allowed.
11. Executive Session: If appropriate.

**ADJOURNMENT**